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*Attorneys for the Official Committee of Equity Security
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UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re:
 USA COMMERCIAL MORTGAGE COMPANY,
 Debtor.

In re:
 USA CAPITAL REALTY ADVISORS, LLC,
 Debtor.

In re:
 USA CAPITAL DIVERSIFIED TRUST DEED
 FUND, LLC,
 Debtor.

In re:
 USA CAPITAL FIRST TRUST DEED FUND, LLC,
 Debtor.

Case No. BK-S-06-10725 LBR
 Case No. BK-S-06-10726 LBR
 Case No. BK-S-06-10727 LBR
 Case No. BK-S-06-10728 LBR
 Case No. BK-S-06-10729 LBR

Chapter 11

Jointly Administered Under
 Case No. BK-S-06-10725-LBR

In re:
USA SECURITIES, LLC,
Debtor.

**JOINT EX PARTE APPLICATION
FOR ORDER REQUIRING
CUSTODIAN OF DOCUMENTS FOR
BEADLE, MCBRIDE, EVANS &
REEVES, LLP, TO APPEAR
FOR EXAMINATION PURSUANT
TO FEDERAL RULE OF
BANKRUPTCY PROCEDURE 2004**

[No hearing required]

Affects:

- ☒ All Debtors
- ☐ USA Commercial Mortgage Company
- ☐ USA Securities, LLC
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA First Trust Deed Fund, LLC

Pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure (hereinafter, the “Bankruptcy Rules”), USA Capital Diversified Trust Deed Fund, LLC (hereinafter, “Diversified”), and the Official Committee of Equity Security Holders of USA Capital Diversified Trust Deed Fund, LLC (hereafter, the “Diversified Committee”), by and through their respective counsel noted above,¹ hereby apply to this Court for an order setting the examination of Garth McBride, under oath, under Bankruptcy Rule 2004. This Application is explained in the following Memorandum.

MEMORANDUM

Diversified and the Diversified Committee are seeking information from Garth McBride concerning the financial audits and/or reviews performed by Beadle, McBride, Evans & Reeves, LLP on Diversified, the other debtors in the above-captioned cases (together with Diversified, the “Debtors”), and the Debtors’ affiliates, subsidiaries, parents, or otherwise related entities. Diversified and the Diversified Committee seek this information to assist in the collection of the assets and investigation of the liabilities of Diversified.

¹ Diversified and the Diversified Committee make this Application jointly because counsel for the Diversified Committee will become counsel to the reorganized Diversified entity subsequent to the Effective Date under the Debtors’ Third Amended Chapter 11 Plan, which was confirmed by the Court pursuant to its order entered January 8, 2007.

1 The requested discovery from Garth McBride is well within the scope of the examination
2 permitted pursuant to Bankruptcy Rule 2004, which includes:

3 [A]cts, conduct, or property or . . . the liabilities and financial condition of
4 the debtor, or . . . any matter which may affect the administration of the
5 debtor's estate, or to the debtor's right to a discharge. In a . . .
6 reorganization case under chapter 11 of the Code, . . . the examination
7 may also relate to the operation of any business and the desirability of its
8 continuance, the source of any money or property acquired or to be
acquired by the debtor for purposes of consummating a plan and the
consideration given or offered therefore, and any other matter relevant to
the case or to the formulation of a plan.

9 Fed.R.Bankr.P. 2004(b).

10 Bankruptcy Rule 2004(a) provides that "[o]n motion of any party in interest, the court
11 may order the examination of any entity." Rule 2004 of the Local Rules of Bankruptcy
12 Procedure (hereinafter, the "Local Rules") provides, in pertinent part:

13 (b) Order for examination. Orders for examination may be signed by
14 the clerk if the date set for examination is more than ten (10) business days
15 from the date such motion is filed....

16 LR 2004(b).

17 As required by the Local Rules, the date for the proposed examination is more than ten
18 (10) business days from the date of this Motion.

19 CONCLUSION

20 Accordingly, Diversified and the Diversified Committee respectfully request that the
21 Clerk of the Court docket the form of Order submitted herewith requiring Garth McBride to
22 testify under oath on the matters outlined above and requiring that Garth McBride, under Rule
23 30(b)(6) of the Federal Rules of Civil Procedure, be required to appear on February 28, 2007, at

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1 11:00 o'clock a.m. prevailing Pacific Time at the law offices of Beckley Singleton, Chtd., 530
2 Las Vegas Boulevard South, Las Vegas, Nevada 89101.

3 Respectfully submitted this 1st day of February 2007.

4 BECKLEY SINGLETON, CHTD.

RAY, QUINNEY & NEBEKER, P.C.

5 /s/ Anne M. Loraditch

/s/ Steven C. Strong

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15 *Security Holders of USA Capital Diversified*
16 *Trust Deed Fund, LLC*

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